



2643



COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

Docket No.: 194630US2

RECEIVED

ATTORNEYS AT LAW

RE: Application Serial No.: 09/620,595
Applicants: Takanobu TAKEUCHI
Filing Date: July 20, 2000
For: MICROPHONE UNIT.
Group Art Unit: 2643
Examiner: LAO, LUN S.

MAR 08 2004

TC 2600

RECEIVED

MAR 08 2004

Technology Center 2600

SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION

Our check in the amount of _____ is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Gregory J. Maier

Registration No. 25,599

Customer Number

22850

(703) 413-3000 (phone)

(703) 413-2220 (fax)

I:\ATTY\RAR\RESTRICTIONS\194630US\CVRLTR.DOC

Ronald A. Rudder, Ph.D.

Registration No. 45,618



I94630US-2

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:

TAKANOBU TAKEUCHI

:

:EXAMINER: LAO, LUN S.

SERIAL NO: 09/620,595

:

FILED: JULY 20, 2000

:GROUP ART UNIT: 2643

FOR: MICROPHONE UNIT

*select
31104*

PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313

RECEIVED

MAR 08 2004

Technology Center 2600

SIR:

In response to the Election of Species Requirement dated February 6, 2004, Applicant provisionally elects Species I identified in the Election of Species Requirement corresponding to Figure 1 and Claims 1-6 readable thereon. Applicant makes this election based on the understanding that Applicant is not prejudiced against filing one or more divisional applications that cover the non-elected claims.

In addition to making this election, Applicant respectfully traverses this Election Requirement for the reason that the different embodiments, indicated in the Election Requirement, have not been shown to be distinct in the manner required by M.P.E.P. §816. MPEP §816 states:

The particular reasons relied on by the examiner for holding the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given.

Since the Election Requirement fails to set forth reasons relied on by the examiner for holding the inventions as claimed are either independent or distinct, it cannot be said to have

met the requirement of MPEP §816.

In addition MPEP §806.04(f) requires:

...Claims to be restricted to different species must be mutually exclusive...

The outstanding Official Action fails to address in any way whether the pending claims recite mutually exclusive characteristics. This provides additional basis for traversing the Election of Species Requirement.

Furthermore, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention would appear to be part of an overlapping search area.

Accordingly, Applicant respectfully traverses the Restriction Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner, whereas it would clearly be burdensome on the Applicant to be required to file, prosecute and maintain separate applications and patents on the identified.

Application No. 09/620,595
Reply to Restriction Response of February 6, 2004

Thus, it is respectfully requested that a full examination of Claims 1-15 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Registration No. 25,599
Ronald A. Rudder, Ph.D.
Registration No: 45,618

CUSTOMER NUMBER
22850

Tel. No.: (703) 413-3000

Fax No.: (703) 413-2220

GJM:RAR:clh

I:\ATTY\RAR\RESTRICTIONS\194630US\SELECT.DOC